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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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2018 JUL -3 PM 1:57
CITY CLERK
SALEM, MASS

July 3, 2018

Decision

City of Salem Board of Appeals

Petition of BREANNAH FORTEY requesting a Special Permit per 3.5.5 Non-conforming Single and Two-Family Structures and a Special Permit per Sec. 3.2.8, to allow the petitioner to expand the existing non-conforming structure to create a 612 sq. ft. accessory living area at 42 MEMORIAL DRIVE (Map 42 Lot 34)(R-1 Zoning District).

A public hearing on the above Petition was opened on June 20, 2018 pursuant to M.G.L. Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas (Vice-Chair), Mike Duffy, Jimmy Tsitsinos, Chris Drucas, and Jim Hacker.

The petitioner is seeking a Special Permit per 3.5.5 Non-conforming Single and Two-Family Structures and a Special Permit per Sec. 3.2.8, to allow the petitioner to expand the existing non-conforming structure to create a 612 sq. ft. accessory living area.

Statements of fact:

1. In the petition date-stamped May 22, 2018, the Petitioner requested a Special Permit per 3.5.5 Non-conforming Single and Two-Family Structures and a Special Permit per Sec. 3.2.8, to allow the petitioner to expand the existing non-conforming structure to create a 612 sq. ft. accessory living area.
2. The petitioner, Breannah Fortey, presents the petition.
3. The property is single family detached dwelling located in the R-1 District.
4. The petitioner is proposing to construct a 612 square foot accessory living area by converting and expanding an existing garage.
5. The property is an existing non-conforming structure as to lot area. The proposed expansion of the structure will create a new non-conformity as to side yard setback requirements. The petitioner is proposing to construct the addition within seven (7ft) +/- of the side yard setback where a minimum of ten (10) feet is required.
6. The proposed accessory living area will provide care, companionship, security, privacy and dignity for Patricia Doyle Michaud, the maternal grandmother of Breannah Fortey.
7. An accessory living area is defined as: A housekeeping unit, with its own sleeping, cooking and sanitary facilities, located within a single family dwelling that is subordinate in size to the principal unit, separated from it in a manner which maintains the appearance of the building as a single family dwelling, and allowed by special permit pursuant to Section 3.2.8 of the Salem Zoning Ordinance.
8. The requested relief, if granted, would allow the Petitioner to construct a 612 square foot accessory living area and convert and expand the garage to serve this use.
9. At the public hearing no members of the public spoke either in favor or opposed to the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Findings for Special Permit

The purpose, procedure and requirements of Section 3.1 through and including 3.10 of this section have been fulfilled and the adverse effects of the proposed use will not outweigh its beneficial impacts to the City or neighborhood.

1. There are community needs that are served by the proposal including by a family member with a means of companionship, security, dignity, and independent living.
2. There are no traffic flow and safety impacts including parking and loading.
3. Utilities and other public services are adequate.
4. There are no negative impacts to the neighborhood character.
5. There are no negative impacts to the natural environment.
6. Potential economic and fiscal impact, including impact on City services, tax base, and employment is positive.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) (Peter A. Copelas (Vice-Chair), Mike Duffy, Jimmy Tsitsinos, Chris Drucas, and Jim Hacker) in favor and none (0) opposed, to grant a Special Permit per 3.5.5 Non-conforming Single and Two-Family Structures and a Special Permit per Sec. 3.2.8, to allow the petitioner to expand the existing non-conforming structure to create a 612 sq. ft. accessory living area subject to the following **terms, conditions and safeguards**:

1. The Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of new construction shall be in harmony with the existing structure.
6. A Certificate of Inspection shall be obtained.
7. A Certificate of Occupancy shall be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

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Peter A. Copelas/ES
Peter A. Copelas, Vice Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.